

11-CV-05896-CMP

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WESTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF  
WASHINGTON AT SEATTLE

michael francis moynihan jr.,

Plaintiff,

vs.

ATTORNEY GENERAL  
OF WASHINGTON,

Defendant,

Case No.:

**C11-5896** BHS

**COMPLAINT**  
**under 5 USC § 552(a)(6)**

**Freedom of Information Act (FOIA) COMPLAINT**  
**arising under 5 USC § 552 (a)(6)**

michael francis moynihan jr., *Citizen in Party, Plaintiff, Complainant*, initiates this FOIA - COMPLAINT arising under 5 USC § 552 (a)(6) through the United States District Court (USDC - 28 U.S.C. § 132), Western District of Washington (28 U.S.C. § 128) - Seattle, against the defendant, Component agency, ATTORNEY GENERAL OF WASHINGTON (WA AGO) (RCW 43.10.*et seq.*), PO BOX 40110, Olympia, Wash.

WA AGO (agency) is a lower federal administrative agency (executive branch) within administrative law principles it was created, conferred, and limited by the Legislature (Congress) in Revised Code of Washington at RCW 43.10.*et seq.* Component agency is an "it," a "U.S. person" with Tax Identification Number (TIN), (*See* 26 CFR § 301.6109-1b). Component agency is situated in The State of Washington (Art. IV, Sec. 3, Cl. 1). Enacted in compliance with

Article I §7 of the US Constitution. The following authorities establish and preserve this requirement: Art. I §8.18 & Article III § 1 of the Constitution; 4 U.S.C. §72; and direct authority by Congress by order is governed under 44 U.S.C. § 1505(a).

"An administrative agency is a creature of statute (Soriano v. U.S., 494 F2d 681, 683 (9th Circuit 1974)" And;

5 USC § 552 (f) For purposes of this section, the term--  
 (1) "agency" as defined in section 551(1) of this title [5 USCS 551(1)] includes any executive department, military department, Government corporation, **Government controlled corporation**, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency; and (2) "record" and any other term used in this section in reference to information includes- (A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and (B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.

#### **Relief:**

Complainant seeks a determination on failed performance for request Component agency's documents and information, according to directives within 20 days pursuant to 5 USC § 552 (a)(6)(ii). Thus, if on denial the USDC "shall notify" on "provisions for judicial review of that determination." Then, as governed by 5 USC § 552 (a)(4)(B), "On complaint, the district court of the United States [DCUS - 28 U.S.C. § 451 - Federal court for the state zone under Art. III, *granted by* § 1, *defined by* § 2 of the U.S. Constitution]...in which the agency records are situated...has jurisdiction." Prayer for relief here involves the acknowledgment request for Component agency's documents/information as request under 5 USC § 552 (a)(6), that statute governs that only the district court of the United States (28 USC 451) shall have jurisdiction.

#### **Parties to this Complaint (APPEAL):**

*Complainant:* michael francis moynihan jr., *Citizen in Party*, (domiciled at 441 Main Ave. S. #32, North Bend, Wash., (425)766-1613.

*Component Agency:* ATTORNEY GENERAL OF WASHINGTON, PO BOX 40110, Olympia, Wash.

1 **Statement of Claim:**

2 Complainant served (GR 3.1) Freedom of Information Act (FOIA) request upon above  
3 named Component agency. The FOIA included (ATTACHED) within this FOIA APPEAL is:  
4 WA AGO 7-8-11 (7.8.11).

5 Component agency has failed to "Provide submission...within" the 20 day time constraint  
6 "pursuant to the Act, under signature of someone that can hold agency to contract, official  
7 letterhead, and certify by as to affidavit of the original maintained in the office". Component  
8 agency has failed to produce documents which Complainant has information that they exist.

9 Any given statute that prescribes a departmental function, creates an obligation, or  
10 prescribes a penalty, must be implemented by regulations published in the Federal Register. This  
11 requirement is in the Federal Register Act, at 44 U.S.C. § 1505(a). Hence, Component agency's  
12 authority is limited to documentation as was and is being challenged by Complainant.

13 Primary purpose of Freedom of Information Act (5 USCS 552), which provides  
14 generally for disclosure of agency records and information, is to open administrative  
15 processes to scrutiny of press and general public. Renegotiation Bd. v Bannerkraft  
16 Clothing Co. (1974) 415 US 1, 39 L Ed 2d 123, 94 S Ct 1028 And;

17 Congressional purpose in enacting Freedom of Information Act (5 USCS 552) was to  
18 establish general philosophy of full agency disclosure unless information is  
19 exempted under clearly delineated statutory language. Docal v Bennsinger (1981, MD  
20 Pa) 543 F Supp 38

21 The FOIA maintains nine exemptions, but Component agency has failed to declare  
22 "denial" under national defense or foreign policy, individual privacy interests, business propriety  
23 interests, and the efficient operation of governmental functions. FOIA gives a Citizen "(1) the  
24 right to see records about [one]self, subject to the Privacy Act's exemptions, (2) the right to  
25 amend that record if it is inaccurate, irrelevant, untimely, or incomplete, and (3) the right to sue  
the government for violations of the statute including permitting others to see [one's] records  
unless specifically permitted by the Act."

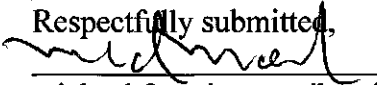
Freedom of Information Act does not vest original jurisdiction in Court of Appeals to  
enforce its terms. Echols v NLRB (1975, CA6) 525 F.2d 288, 91 BNA LRRM 2336, 78  
CCH LC 11256. And;

1 In Freedom of Information Act, 5 USCS 552 case, federal **district court** [28 U.S.C. §  
2 451] has jurisdiction over agency that allegedly violates Freedom of Information Act.  
3 Parenti v IRS (2003, WD Wash) 2003-1 USTC 50282, 91 AFTR 2d 1136, affd (2003,  
CA9 Wash) 70 Fed Appx 470, 2003-2 USTC 50616, 92 AFTR 2d 5668 [Emphasis]

4 Please give directives for submitting this COMPLAINT in district court of United States  
5 (DCUS) or send to or file it on USDC s' own accord as governed by USC. Both 5 USC § 552  
6 "for litigating" only mention the DCUS, Federal Court for the state zone (28 U.S.C. § 451) as the  
7 proper forum (exclusively). Injunction as relief under statute may be provided under Act through  
8 this court, or remove to DCUS.

9 DATED this day 31st day of October, 2011

10 Respectfully submitted,

11   
12 michael francis moynihan jr.  
13 Plaintiff, *Citizen in Party*

14 *Name and address of Plaintiff:*

15 michael francis moynihan jr.  
16 c/o 441 Main Ave. S #32  
17 North Bend, Wash.

18 **AFFIDAVIT / CERTIFICATE OF SERVICE**

19 The undersigned hereby certifies under penalty of perjury under the laws of The State of  
20 Washington, that on the date noted below, a true and correct copy of FOIA COMPLAINT -  
21 APPEAL was placed into the Sno. Co. Sheriff's Corrections BUREAU inmate mail services  
22 pursuant to GR 3.1, in postage paid envelopes for delivery and/or transmittal in the U.S. Mail to:

23 (1) *Component Agency:* ATTORNEY GENERAL OF WASHINGTON, PO BOX 40110,  
24 Olympia, Wash.

25 DATED this day 31st day of October, 2011

Respectfully submitted,

  
michael francis moynihan jr.

WA AGO 7-8-11

Date: June 23, 2011

To: ATTORNEY GENERAL OF WASHINGTON, PO BOX 40110, Olympia, Wash., Public Records Officer

From: michael francis moynihan jr.

Subject: INFORMATION REQUEST

Dear sir or Madam.

Pursuant to the provisions of the Washington State Freedom of Information Act, Public Records Act RCW 42.56 or 5 USC Section 552 as amended, I hereby make a formal request (WA AGO 7-8-11) for certified copies of the following originals:

1. The document, as Oath of Office of JODY LEE CAMPBELL, Jody Lee Campbell(#32233).
2. The document providing a copy of JODY LEE CAMPBELL, Jody Lee Campbell's pay stub, demonstrating that federal taxes are being deducted. An affidavit of US citizenship, federal tax accountability, and verification that a social security number has been assigned would suffice.

If any of the above documents do not exist please so state and certify that fact for each above instance by using such words as follows: I (name FOIA coordinator) certify that no such documents as above described in 1., 2., of request WA AGO 7-8-11 exist in the files of (state where the files are located).

Fulfill request with cover page and requested page of the document described.

Provide the submission to the above within the time constraints pursuant to the Act, under signature of someone that can hold the agency to contract, official letterhead, and certify by as to affidavit of the original maintained in the office (state where the record is maintained).

Do not fulfill this request with computer or otherwise generated hearsay.

Respectfully,



michael francis moynihan jr.

c/o 441 Main Avenue S. #32  
North Bend, Wash.